

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

ARSENIO ANAYA,

Petitioner,

v.

No. CV 21-834 KG/CG

FNU HATCH, et al.,

Respondents.

ORDER TO ANSWER

THIS MATTER is before the Court on Petitioner Arsenio Anaya's 28 U.S.C. § 2254 Habeas Corpus Petition, (Doc. 1). Mr. Anaya challenges his state convictions stemming from intoxicated driving based on Fourth Amendment violations. Mr. Anaya filed two prior § 2254 petitions, but they were dismissed without prejudice for failure to complete the state exhaustion process. See Case Nos. 21-cv-0460 WJ-GJF; 21-cv-0650 JCH-SCY. The state record reflects that Mr. Anaya has now completed his certiorari appeal with the New Mexico Supreme Court. See Order Denying Petition in Case No. S-1-SC-38876. Accordingly, there are no procedural defects evident on the face of the § 2554 Petition. Having otherwise reviewed the claims pursuant to 28 U.S.C. § 2254 and Habeas Corpus Rule 4, the Court determines the Petition must be resolved on a full record.

IT IS THEREFORE ORDERED that the Clerk forward copies of this Order and the Petition, (Doc. 1), to Respondent Attorney General of the State of New Mexico (AG);

IT IS FURTHER ORDERED that Respondents answer the Petition by **January 14, 2022**. Respondents' answer must address the merits of each claim and may provide additional information on exhaustion. Respondents must attach to their answer copies of

any filing pertinent to the issue of exhaustion and/or the merits that was filed by Mr. Anaya in the sentencing court, the state district court, the state court of appeals, and the state supreme court; and copies of all memoranda filed by both parties. Respondents must also attach to the answer copies of all state court post-conviction or appellate proceedings and any trial transcripts that are necessary to resolve the claims.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read 'Carmen E. Garza', written over a horizontal line.

THE HONORABLE CARMEN E. GARZA
CHIEF UNITED STATES MAGISTRATE JUDGE